IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

FAO.No. 219 of 2007()

AGAINST THE ORDER DATED 04/06/2007 IN IA 3930/2006. IN OS.521/2006 of ADDL.SUB COURT, NORTH PARAVUR
.....

APPELLANTS/ PETITIONERS/PLAINTIFFS:
----

1. **C.J.ANTONY, S/O.CHAKKIATH JOSEPH, AGED 66 YEARS, CHAKKIATH HOUSE, KARUKUTTY P.O., ALUVA TALUK, KARUKUTTY VILLAGE, ERNAKULAM DISTRICT**

2. **BABU ANTONY, S/O. C.J.ANTONY, AGED 38 YEARS, -DO-, -DO-.**

3. **SHAJI ANTONY, S/O.C.J.ANTONY, AGED 30 YEARS, -DO-,-DO-.**

4. **SHIJO ANTONY, S/O,. C.J.ANTONY, AGED 27 YEARS, -DO-, -DO-.**

BY ADV. SRI.M.P.SREEKRISHNAN
SMT.SHAHNA KARTHIKEYAN
SRI.V.ARUN

RESPONDENTS: RESPONDENTS/DEFENDANTS:
----

1. **FR.AUGUSTINE, THENAYAN, S/O.VARIATH, AGED 70 YEARS, DIRECTOR, NAZARATH INSTITUTION, RESIDING AT DIRECTORS BUNGALOW, NAZARATH INSTITUTIONS, EDAKUNNU, PADUVAPURAM POST, PIN:683 582.**

2. **FR.SEBASTIAN VADAKKUMPADAM, S/O.THOMAS, AGED 64 YEARS, DIRECTOR, LITTLE FLOWER HOSPITAL, ANGAMALY P.O., PIN:683 572.**

F.A.O. NO.219/2007

3. SHOLLY THALIYAN, S/O.ANTONY,
AGED 32 YEARS, BUSINESS, RESIDING AT THALIYAN HOUSE, AANAPPARA.P.O.,

4. FR.SEBASTIAN PYNADATH, AGED 57 YEARS,
VICAR, ST.JOSEPH CHURCH, KOOTTAMOM,
NEELESWARAM P.O.

5. FR.BIJU CHAKKIATH, S/O.PAULOSE,
AGED 28 YEARS, ASSISTANT DIRECTOR,
WELFARE SERVICES, ERNAKULAM, PONNURUNNY,
VYTHILLA P.O., ERNAKULAM DISTRICT.

6. MALAYATTOOR KURUSSUMUDI INTERNATIONAL
SHRINE, REPRESENTED BY RECTOR FR.VARGHESE NJALIATH
VICAR (ST.THOMAS CHURCH, MALAYATTOOR),
S/O. OUSEPH, AGED 67 YEARS, RESIDING AT ST.THOMAS CHURCH, MALAYATTOOR P.O.

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

F.A.O.NO.219 OF 2007 ()

Dated this the 30th day of July, 2007

J U D G M E N T

KOSHY,J.

Appellant plaintiff filed I.A.No.3930/2006 for injunction. Interim application was dismissed finding that their prima facie possession was not proved. There was some observations regarding the execution of Will. It is stated in the order itself that those questions are of larger issue and that have to be decided separately on evidence. Therefore whatever findings and observations made in the interim order is not binding in the final adjudication and parties can adduce evidence, and on the basis of the evidence, suit will be decided. On the facts and circumstances of the case, we see no reason to interfere in the impugned order and hence this appeal is dismissed. We are not expressing any opinion on the merits of the case.

J.B.KOSHY, JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

2nd July, 2007